IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.15311 of 2008

DR.UMESH KUMAR SINGH

Versus

STATE OF BIHAR

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5. 24.7.2008 Heard the learned counsel for the petitioner and the State as well as the learned counsel appearing on behalf of the informant.

The petitioner is an accused for the offences registered under sections 376 and 498A of the Indian Penal Code.

It is submitted on behalf of the petitioner that the present case has been lodged by the informant, who was the wife of this petitioner, with whom he has obtained the order for divorce, as contained in Annexure 2. It is further submitted that on perusal of the allegations made in the First Information Report, the informant on her own has stated that she was having the physical relationship with the petitioner till 20th of July, 2007 as a husband. It is further submitted that on 31st of July, 2007 the informant came along with her brother and took her all belongings as per the list contained in Annexure 3. Further submission is to the effect that only after receiving all her belongings, the present F.I.R. was lodged on 2nd of August, 2007. The informant has made further allegation that on returning back the petitioner snatched those articles for which a separate case vide Dehri Town P.S. Case No.219 of 2007 was registered, as contained in Annexure 4. In the said case, the police after investigation has submitted final form. The learned counsel for the petitioner further

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submits that the allegation of demand from the informant after about 12 years is an afterthought since as per the allegation given on last time the petitioner is alleged to have demanded the money on 28th of February, 2007. However, nothing followed thereafter. As such, the petitioner prays for grant of anticipatory bail.

The learned counsel appearing for the informant, on the other hand, submits that even if for the sake of argument the allegation of offence under section 376 I.P.C. is not accepted, even then the offence under section 498A of the I.P.C. is attracted on the allegations made in the First Information Report. However, there is nothing on the record with regard to any action taken for the alleged offence under section 498A I.P.C., which, according to the informant, was committed by the petitioner since many times. It is further submitted that after passing the order of ex parte decree of divorce, as contained in Annexure 2, the informant has filed a miscellaneous case for setting aside of the same, which is pending, since, according to the informant, the ex parte decree was obtained on the allegation that the informant was suffering from mental illness right from the very beginning.

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The learned counsel for the State, on the other hand, on perusal of the allegations made in the First Information Report, is not in a position to substantiate the allegations against the petitioner.

Considering the submissions, as noticed above, and upon perusal of the allegations made in the F.I.R. as also the other materials brought on the record, it is directed that in the event of his

arrest or surrender in connection with Mohania P.S. Case No.206 of 2007, the petitioner Dr. Umesh Kumar Singh, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Kaimur, on the conditions mentioned in sub-section (2)of section 438 of the Code of Criminal Procedure.

PNM **(Shailesh Kumar Sinha, J.)**

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